

AMENDED IN SENATE APRIL 13, 2005

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 1070

**Introduced by Senator Kehoe
(Coauthor: Senator Alquist)**

February 22, 2005

An act to amend Sections 13167 and 13225 of, and to repeal and add Section 13181 to, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1070, as amended, Kehoe. Water quality information.

(1) Existing law, the Porter-Cologne Water Quality Control Act, requires the State Water Resources Control Board, in conjunction with the California regional water quality control boards, to implement a public information program on matters involving water quality and to maintain an information file on water quality research and other pertinent matters.

This bill would require the state board to place on its Web site a public information file on water quality research, standards, regulation, enforcement, and other pertinent matters, as prescribed.

(2) The act requires the state board, to the extent that funds are available, to prepare and complete, on or before January 1, 2000, an inventory of existing water quality monitoring activities within state coastal watersheds, bays, estuaries, and coastal waters.

This bill would repeal that provision and would require the California Environmental Protection Agency and the Resources Agency, on or before December 1, 2006, to enter into a memorandum of understanding for the purposes of establishing the California Water Quality Monitoring Council, which the state board would be required to administer. The bill would require the memorandum of

understanding to describe the means by which the monitoring council will work to (a) reduce redundancies, inefficiencies, and inadequacies in existing data collection programs and (b) ensure that sufficient information is collected to track improvements in water quality and to evaluate the effectiveness of programs administered by the state board or the regional boards and other water quality improvement projects in achieving clean water and healthy ecosystems. The bill would require the monitoring council to undertake various actions relating to data collection. The bill would require the Secretary of the California Environmental Protection Agency, beginning December 1, 2008, to conduct a biennial audit of the effectiveness of a specified monitoring and assessment network developed and implemented by the monitoring council.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) The Legislative Analyst's Office has concluded that
4 ambient water quality monitoring is the foundation for much of
5 the work of the State Water Resources Control Board, including
6 basin planning, standards setting, and permitting.
7 (b) The Government Accounting Office has determined that
8 the United States Environmental Protection Agency (EPA) and
9 the states need comprehensive water quality monitoring and
10 assessment information on environmental changes and conditions
11 over time and that, in the absence of this information, it is
12 difficult for the EPA and the states to establish priorities,
13 evaluate the success of programs and activities, and report on
14 accomplishments.
15 (c) The National Research Council has similarly
16 recommended the development of a uniform, consistent approach
17 to ambient water quality monitoring and data collection,
18 increased resources for water monitoring, and improved
19 coordination of monitoring.
20 (d) According to California's biennial monitoring report to the
21 EPA, the state can only report on the health of 22 percent of its
22 coastal shoreline, 34 percent of its lakes and reservoirs, and 15

1 percent of its rivers and streams. There is no single place where
2 the public can go to get a specific look at the health of water
3 bodies in its own backyard, or even to get an overall picture of
4 the health of the state's waters.

5 (e) State board funding for ambient surface water monitoring
6 has decreased significantly over the years. The efforts that are
7 underway could be enhanced significantly if the state effectively
8 coordinates the many separate monitoring activities that are
9 going on at the local, state, and federal levels, but different
10 protocols and agency interests have precluded coordination of the
11 data.

12 (f) The development of new programs to control agricultural
13 and timber pollution, and the implementation of hundreds of new
14 projects financed by bond funds to improve water quality, may
15 produce water quality improvements that will essentially go
16 unmeasured without significant improvements in the
17 coordination, integration, and funding of water quality
18 monitoring. The State of California cannot afford to waste the
19 opportunities provided by these and other water quality
20 improvement programs.

21 (g) Numerous water monitoring efforts are conducted by local,
22 state, and federal agencies, regulated entities, and citizen
23 monitoring groups. Many of these efforts are uncoordinated, and
24 as a result funds and information are not being used as effectively
25 as they could be. In addition, redundant monitoring activities can
26 occur because of a lack of basic information relative to the scope
27 of monitoring activities throughout the state. For example, there
28 are 100 water quality monitoring efforts underway in the central
29 valley alone, and coordination is minimal.

30 (h) The state's Nonpoint Source Pollution Monitoring Council
31 should be expanded to provide a complete, coordinated picture of
32 current and changing water health throughout the state, to inform
33 the public with regard to safe use of its waters, and to report to
34 the public on the success of efforts to protect and restore those
35 waters.

36 (i) Federal funding and funding from other sources is available
37 to make sure that the State of California improves its monitoring
38 efforts so that Californians have a better understanding of the
39 health of the state's waters. Additional support can be found

1 through the savings provided by increased coordination and
2 integration of existing monitoring efforts.

3 (j) Californians should be able to readily access basic
4 information that already exists about the state's waters and how
5 those waters are protected and restored. By their recent approval
6 of a constitutional amendment (Proposition 59), California voters
7 have indicated their strong support for open and transparent
8 government. The "government" of state waters should be carried
9 out in a similarly open manner. At a minimum, all information
10 that is currently available to agencies should be made readily
11 available to the public via the Internet.

12 SEC. 2. Section 13167 of the Water Code is amended to read:

13 13167. (a) The state board shall implement a public
14 information program on matters involving water quality, and
15 shall maintain and place on its Web site, in a format accessible to
16 the general public, an information file on water quality research,
17 standards, regulation, enforcement, and other pertinent matters.

18 (b) The information file described in subdivision (a) shall
19 include, but need not be limited to, information relating to
20 permits, waste discharge requirements, waivers, reports, lists,
21 charts, standards, objectives, agreements, enforcement actions,
22 and other information and documents prepared pursuant to
23 Sections 13164, 13170.1, 13181, 13240, 13241, 13243, 13260,
24 13263, 13266, 13267, 13269, 13320, 13323, 13376, 13377, and
25 13399.27. To the maximum extent practicable given available
26 funding, the state board, in consultation with the regional boards,
27 shall ensure that the information is available in single locations,
28 rather than separately by region, and that the information is
29 presented in a manner easily understandable by the general
30 public.

31 SEC. 3. Section 13181 of the Water Code is repealed.

32 ~~13181.~~

33 SEC. 4. Section 13181 is added to the Water Code, to read:

34 13181. (a) On or before December 1, 2006, the California
35 Environmental Protection Agency and the Resources Agency
36 shall enter into a memorandum of understanding for the purposes
37 of establishing the California Water Quality Monitoring Council,
38 which shall be administered by the state board. ~~The _____ shall~~
39 ~~determine the composition of the monitoring council. The~~
40 ~~monitoring council shall include~~ *board. The California*

1 *Environmental Protection Agency and the Resources Agency*
2 *shall jointly determine the composition of the monitoring council,*
3 *which shall include* representatives from state agencies with
4 responsibilities for water quality monitoring. The purpose of the
5 monitoring council shall be to coordinate the water quality
6 monitoring efforts of federal, state and local government,
7 institutions of higher education, representatives of the regulated
8 community, citizen monitoring groups, and other interested
9 parties, to develop a coordinated, integrated, comprehensive
10 network for collecting and disseminating water quality
11 information and assessments. Among other things, the
12 memorandum of understanding shall describe the means by
13 which the monitoring council shall do both of the following:

14 (1) Work to reduce redundancies, inefficiencies, and
15 inadequacies in existing data collection programs in order to
16 improve the effective delivery of sound, comprehensive
17 information to the public and decisionmakers.

18 (2) Ensure that sufficient information is collected to track
19 improvements in water quality and evaluate the overall
20 effectiveness of programs administered by the state board or the
21 regional boards, and water quality improvement projects
22 financed by the state or the federal government, with regard to
23 achieving clean water and healthy ecosystems.

24 (b) The monitoring council shall report annually to the
25 California Environmental Protection Agency and the Resources
26 Agency as to its recommendations for maximizing the efficiency
27 and effectiveness of water quality data collection and
28 dissemination, to ensure that sufficient data are maintained and
29 available for use by decisionmakers and the public. The
30 monitoring council shall consult with the United States
31 Environmental Protection Agency in preparing these
32 recommendations. The monitoring council's recommendations,
33 and any responses submitted by the California Environmental
34 Protection Agency or the Resources Agency to those
35 recommendations, shall be made available to decisionmakers and
36 the public via the Internet.

37 (c) The monitoring council shall undertake and complete, on
38 or before March 1, 2007, an inventory of existing water quality
39 monitoring and data collection efforts statewide and make that
40 information available to the public.

(d) All entities of the state, including institutions of higher education to the extent permitted by law, that collect water quality data or information shall cooperate with the state board in the development and implementation of the memorandum of understanding to develop a coordinated, efficient, and effective statewide water quality data collection, dissemination, and assessment network.

~~(e) The coordinated monitoring and assessment network understanding to develop the water quality data network described in subdivision (a).~~

(e) The network developed and implemented by the monitoring council pursuant to subdivision (a) shall include, but not be limited to, all of the following components:

(1) A comprehensive monitoring program strategy that utilizes and expands upon the state's existing monitoring capabilities and describes how the state will develop an integrated monitoring program that will serve all of the state's water quality monitoring needs and address all of the state's waters over time. ~~The strategy shall include a timeframe with milestones that will ensure completion of the strategy within 10 years. The over time. The strategy shall be fully implemented within 10 years of the date of adoption. The strategy shall be comprehensive in scope and identify the technical, integration, and resource needs that are currently impediments to an adequate monitoring program, and recommend solutions to those issues and recommend solutions for those needs so that the strategy will be implemented within the 10-year timeframe.~~

~~(2) Monitoring objectives that will ensure a program that is efficient and effective in generating data that facilitate management decisions and public information needs.~~

~~(3) An approach and rationale for selection of coordinated monitoring designs and sites that most efficiently and effectively serve the monitoring objectives.~~

~~(4) Core indicators selected to represent applicable water uses, and supplemental indicators, as needed, for particular pollutants of concern. Core indicators may include, but need not be limited to, physical/habitat, chemical/toxicological, and biological/ecological endpoints, that are appropriate for use in assessing attainment of water quality standards throughout the state. Core indicators developed pursuant to the environmental~~

1 ~~protection indicators for California reports shall be given high~~
2 ~~priority as core indicators for purposes of this coordinated~~
3 ~~monitoring and assessment network.~~

4 *(2) Agreement on, and implementation of, comprehensive*
5 *monitoring of statewide water quality protection indicators that*
6 *provide a basic minimum understanding of the health of the*
7 *state's waters. Indicators already developed pursuant to*
8 *environmental protection indicators for statewide initiatives shall*
9 *be given high priority as core indicators for purposes of the*
10 *network described in subdivision (a).*

11 ~~(5)–~~
12 (3) Quality management plans and quality assurance plans that
13 ensure the validity and utility of the data collected.

14 ~~(6) An accessible and user-friendly electronic data system for~~
15 ~~water quality, fish tissue, toxicity, sediment chemistry, habitat,~~
16 ~~biological and other data, with timely data entry and ready public~~
17 ~~access via the Internet. To the maximum extent possible, the~~
18 ~~geographic location of the assessment units shall be consistently~~
19 ~~defined using the national hydrography dataset, or other similar~~
20 ~~locator.~~

21 ~~(7)–~~
22 (4) Methodology for compiling, analyzing, and integrating all
23 readily available information, ~~including to the maximum extent~~
24 *feasible, including*, but not limited to, data acquired from
25 discharge reports, volunteer monitoring groups, and local, state,
26 and federal agencies.

27 ~~(8)–~~
28 (5) *An accessible and user-friendly electronic data system with*
29 *timely data entry and ready public access via the Internet. To the*
30 *maximum extent possible, the geographic location of the areas*
31 *monitored shall be included in the data system.*

32 (6) Production of timely and complete water quality reports
33 and lists that are required under Sections 303(d), 305(b), 314 and
34 319 of the Federal Water Pollution Control Act and Section 406
35 of the Beaches Environmental Assessment and Coastal Health
36 Act of 2000 Act, that include all available information from
37 discharge reports, volunteer monitoring groups, and local, state,
38 and federal agencies.

39 ~~(9)–~~

(7) An update of the state board's surface water ambient monitoring program needs assessment in light of the benefits of increased coordination and integration of information from other agencies and information sources. This update shall include identification of current and future resource needs required to fully implement the coordinated, comprehensive monitoring network, including, but not limited to, funding, staff, training, laboratory and other resources, and projected improvements in the network.

(f) Data, summary information, and reports prepared pursuant to this section shall be made available to appropriate public agencies and the public by means of the Internet.

(g) (1) Commencing December 1, 2008, the Secretary of the California Environmental Protection Agency shall conduct a biennial audit of the effectiveness of the monitoring and assessment network and the monitoring council established pursuant to this section. The audit shall include an assessment of the effectiveness of the monitoring and assessment program and the monitoring council in tracking improvements in water quality, *and in* evaluating the overall effectiveness of programs administered by the state board or a regional board and of state and federally-funded water quality improvement projects.

(2) The Secretary of the California Environmental Protection Agency shall consult with the Secretary of the Resources Agency in preparing the audit, consistent with the memorandum of understanding entered into pursuant to subdivision (a).

(h) The state board shall prioritize the use of federal funding that may be applied to monitoring, including, but not limited to, funding under Section 106 of the Federal Water Pollution Control Act, for the purpose of implementing this section.

(i) The state board shall not use more than 5 percent of the funds made available to implement this section for the administrative costs of any contracts entered into for purpose of implementing this section.

SEC. 5. Section 13225 of the Water Code is amended to read:

13225. Each regional board, with respect to its region, shall:

(a) Obtain coordinated action in water quality control, including the prevention and abatement of water pollution and nuisance.

(b) Encourage and assist in self-policing waste disposal programs, and upon application of any person, advise the applicant of the condition to be maintained in any disposal area or receiving waters into which the waste is being discharged.

(c) Require as necessary any state or local agency to investigate and report on any technical factors involved in water quality control or to obtain and submit analyses of water; provided that the burden, including costs, of such reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained therefrom.

(d) Request enforcement by appropriate federal, state and local agencies of their respective water quality control laws.

(e) Recommend to the state board projects which the regional board considers eligible for any financial assistance which may be available through the state board.

(f) Report to the state board and appropriate local health officer any case of suspected contamination in its region.

(g) File with the state board, at its request, copies of the record of any official action.

(h) Take into consideration the effect of its actions pursuant to this chapter on the California Water Plan adopted or revised pursuant to Division 6 (commencing with Section 10000) of this code and on any other general or coordinated governmental plan looking toward the development, utilization or conservation of the water resources of the state.

(i) Encourage regional planning and action for water quality control.

(j) Comply with the public information requirements set forth in Section 13167.

CORRECTIONS:

Text— Pages 4 and 5.